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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,301	10/15/2003	Paul R. Erickson	05918-342001	8854

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EXAMINER
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RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

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07/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/688,301	<b>Applicant(s)</b> ERICKSON ET AL.	
	<b>Examiner</b> Ruth C. Rodriguez	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed 15 June 2006 has been considered for this Office Action.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-3, 12, 31-33 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Murasaki (US 5,985,407).

Murasaki disclose a strip-form touch fastener component (3,4) comprises a resin base (4) and a reinforcement fabric (3). The resin base has a front surface and an array of fastener elements (4b) projecting from the front surface. Each fastener element has a stem extending contiguously from the front surface of the base and formed of resin forming at least a portion of the base and a head disposed on the stem above the base and forming an overhang for releasably engaging fibrous loops (Figs. 1-6, 9 and 10). The reinforcing fabric is on a side of the resin base opposite the fastener elements (Figs. 1-6, 9 and 10). The fabric comprises two distinct layers of yarns including an anchor layer and outer layer (C. 5, L. 10-12). The anchor layer faces the resin base and

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comprises filaments embedded within resin of the base to anchor the fabric to the base (Figs. 1-6, 8 and 10). The outer layer comprising float filament sections extending generally along an outer surface of a back side of the fastener component such sections connected to the back side of the fastener component only at their ends and otherwise close to the back side of the fastener component (Figs. 1-6, 8 and 10). The float filaments are lying against the back of the fastener component (when the touch fastener component is stretched until the float filaments are lying against the back of the fastener component).

The float filament sections extend generally straight between the connected ends (woven and knit fabrics provide generally straight ends).

The float filament sections are substantially free of resin of the base between their ends (Figs. 1-6, 9 and 10).

The float filament sections extend in a direction generally across the strip-form fastener component (Figs. 1-6, 9 and 10).

A strip-form touch fastener component (3,4) comprising a resin base (4) and a reinforcing fabric (3). The resin has a front surface from which an array of fastener elements project (4b). Each fastener element has a stem and a base (Figs. 1-6, 9 and 10). The stem extends contiguously from the front surface of the base and is formed of resin forming at least a portion of the base (Figs. 1-6, 9 and 10). The head is disposed on the stem above the base and forming an overhang for releasably engaging fibrous loops (Figs. 1-6, 9 and 10). The reinforcing fabric is directly laminated to a side of the resin base opposite the fastener elements (Figs. 1-6, 9 and 10). The fabric comprises a

knit material with float filament sections extending generally along an outer surface of a back side of the fastener component (C. 5, L. 10-12). The sections connected to the back side of the fastener component only at their ends (Figs. 1-6, 9 and 10). The float filaments are lying against the back of the fastener component (when the touch fastener component is stretched until the float filaments are lying against the back of the fastener component).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-11, 13-30, 34-41 and 43-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murasaki (US 5,985,407).

Murasaki discloses a touch fastener having all the features mentioned above for the rejection of claim 1. Murasaki fails to disclose any dimension for the touch fastener. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have:

- The float filament sections extend no more than about 0.3 millimeters from a back surface of the resin base (when the touch fastener is stretched until the float filaments are lying against the back of the fastener component).

- The float filament sections extend is at least 0.3 millimeters from the back surface of the resin base (when the touch fastener is stretched until the float filaments are lying against the back of the fastener component).

- The float filament sections extend is at least 0.3 millimeters from the back surface of the resin base (when the touch fastener is stretched until the float filaments are lying against the back of the fastener component).

- The float filament sections have an average float length of about two millimeters.

- The average float filament length is between about 2 and 10 millimeters.

- An average float length of the float filament section is more than about 10 times as long as a nominal distance of the float filament sections extending from the back surface of the resin base.

- The float filament sections arranged in a pattern of at least 150 float filament sections per square centimeter of the back side of the fastener component.

- The float filament section are at least 0.03 millimeter from the back surface of the resin base.

since a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Especially since it is well known in the art at the time the invention was made to changed the dimensions of the different elements in order to reinforce the touch fastener in accordance with the application where it is being used.

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Murasaki also fails to disclose any details for the woven or knit fabric. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have:

- The float filament sections are sections of filaments of multifilament yarns of the reinforcement fabric.

- The yarns are multifilament yarns.
- Each yarn contains from 10 to 13 discrete filaments.
- The yarns are between about 20 and 170 denier.
- The yarns are between about 2 and 40 denier.
- The knit fabric is knitted to define a technical face and a technical back.
- The technical face faces the resin base with the technical back providing the float filament sections.

- The technical back is in an unnapped condition.
- The reinforcing fabric is a warp knit fabric.
- The fabric comprises between about 20 and 60 courses per inch.
- The fabric comprises between about 47 and 55 courses per inch.
- The fabric comprises between about 15 and 60 wales per inch.
- The fabric comprises between about 32 and 38 wales per inch.
- The fabric is stabilized in a post-knit, cross-wale stretch condition.

since the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ

416 (CCPA 1960). In this case, the use of the different materials is well known the hook and loop fastener art.

Regarding to claims 30 and 55, Murasaki fails to disclose that the fastener component has a Stitch Hole Tear Strength of at least 2.0 pounds. However, the reinforcing fabric provided for the fastener component adds strength to the base and also provides a substantial modification of the base of the hook component (C. 6, L. 3-8). Such a reinforcement can provide a Stitch Hole Tear Strength of at least 2.0 pounds. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the fastener component can have a Stitch Hole Tear Strength of at least 2.0 since the reinforcing fabric adds strength to the base and also provides a substantial modification of the base of the fastener component that can suffer tear by repeated use of the touch fastener.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-55 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

rcr  
April 16, 2007

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**